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August 19, 2022

VIA ECF

Hon. Analisa Torres  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, NY 10007

**SEC v. Ripple Labs Inc., et al., No. 20-cv-10832 (AT) (SN) (S.D.N.Y.)**

Dear Judge Torres:

Pursuant to Section IV(A)(ii) of this Court's Individual Practices, we write on behalf of Defendants Ripple Labs Inc. ("Ripple"), Bradley Garlinghouse, and Christian A. Larsen to propose narrowly-tailored redactions to a limited number of exhibits to the briefs filed by the parties in opposition to the motions to exclude expert testimony. *See* ECF Nos. 589-598 ("*Daubert* Responses"). Copies of these exhibits with the proposed redactions highlighted have been submitted under seal along with this Letter-Motion.<sup>1</sup> *See* Exs. A-I. The limited redactions that Defendants request are narrowly tailored to protect the legitimate privacy interests of third parties.

**I. Legal Standard**

The presumption of public access to judicial documents in the context of non-dispositive motions is "generally somewhat lower than the presumption applied to material introduced at trial, or in connection with dispositive motions such as motions for dismissal or summary judgment." *Brown v. Maxwell*, 929 F.3d 41, 50 (2d Cir. 2019). When balancing competing considerations against this presumption, "[f]oremost among the competing concerns . . . is 'the privacy interest of the person resisting disclosure.'" *Mirlis v. Greer*, 952 F.3d 51, 61 (2d Cir. 2020) (quoting *U.S. v. Amodeo*, 71 F.3d 1044, 1050 (2d Cir. 1995)).

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<sup>1</sup> Many of the exhibits to the *Daubert* Responses are duplicates of exhibits to the parties' *Daubert* motions. Redactions proposed by Defendants in connection with their July 22 sealing motion would apply to these duplicate exhibits and are not separately addressed in this Letter-Motion. *See* ECF No. 562. These exhibits are identified in Appendix A.

## II. Defendants' Proposed Redactions

### A. Identities of Non-Parties

Defendants seek to protect the identities of certain non-party entities—including, among others, digital asset market participants and Ripple's business partners—whose privacy interests “should weigh heavily in a court's balancing equation.”<sup>2</sup> *Amodeo*, 71 F.3d at 1050 (citations omitted); *see also* ECF No. 561-2 at ¶ 13. Many of the affected third parties have expressed to Defendants their strong desire for such redactions to protect their privacy interests.<sup>3</sup>

The Court should grant these redactions for all of the reasons articulated by Defendants in their July 22 sealing motion, which sought similar redactions. *See* ECF No. 561 at 4-5. Those arguments apply with equal force here. *First*, the identities of these non-parties have no bearing at all on the *Daubert* Responses. *Second*, disclosure would be detrimental to these non-parties' legitimate privacy interests and Ripple's commercial relationships with them. *See* ECF No. 561-2 ¶¶ 10, 13. *Third*, the proposed redactions are consistent with prior rulings in this case. *See, e.g.*, Order, ECF No. 554 (Torres, J.). *Finally*, though not a dispositive factor, the SEC has previously indicated that it does not oppose the redaction of non-party names. *See* ECF Nos. 565 at 2; 570 at 1.

### B. Identities of Certain Ripple Employees

For the same reasons set forth in Defendants' July 22 sealing motion, *see* ECF No. 561 at 5, Defendants seek to redact the names and contact information of certain Ripple employees that appear in the *Daubert* Responses.<sup>4</sup> *First*, these employees' identities are not relevant to the *Daubert* Responses and any public interest in the disclosure of their identities is therefore minimal. *Second*, these employees are not parties to this suit and therefore have significant privacy interests and are entitled to a greater level of protection to prevent unnecessary disclosure of their identities. *Third*, the Court has previously granted Defendants' requests to redact the identities of non-party Ripple employees. *See, e.g.*, Order, ECF No. 554 (Torres, J.). *Finally*, the SEC has previously indicated that it does not oppose the redaction of Ripple employee names. *See* ECF No. 570 at 1.

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<sup>2</sup> The proposed redactions appear in Ex. A (ECF No. 598-6), Ex. B (ECF No. 597), Ex. C (ECF No. 592), Ex. D (ECF No. 592-1), Ex. E (ECF No. 592-2), Ex. F (ECF No. 592-3), Ex. G (ECF No. 592-4), Ex. H (ECF No. 592-5), Ex. I (ECF No. 592-6).

<sup>3</sup> Defendants' proposed redactions include redactions of the identity of Third-Party A consistent with the sealing motion filed by Third-Party A on July 28, 2022 (ECF No. 581), which Defendants did not oppose, and after meeting and conferring with Third-Party A.

<sup>4</sup> The proposed redactions appear in Ex. A (ECF No. 598-6), Ex. B (ECF No. 597), Ex. C (ECF No. 592), Ex. D (ECF No. 592-1), Ex. E (ECF No. 592-2), Ex. F (ECF No. 592-3), Ex. G (ECF No. 592-4), Ex. H (ECF No. 592-5), Ex. I (ECF No. 592-6).

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**C. Personal Financial Information**

Defendants also seek narrow redactions of information pertaining to the personal financial holdings of a Ripple employee. *See* Ex. D (ECF No. 592-1). Such information is not relevant to the *Daubert* Responses, pertains to private holdings apart from that individual's Ripple compensation, and implicates significant privacy interests. *See, e.g., City of Almaty, Kazakhstan v. Ablyazov*, No. 15 Civ. 5345, 2021 WL 1177737, at \*1 (S.D.N.Y. Mar. 29, 2021) (allowing redaction of third parties' personal financial information when such information was "essentially irrelevant to the summary judgment motion").

Respectfully submitted,

/s/ Andrew J. Ceresney

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cc: All Counsel of Record (via ECF)

## Appendix A

### **Proposed Redactions to Duplicate Exhibits to *Daubert* Responses**

<b><i>Daubert</i> Response Exhibit</b>	<b>Defendants' Proposed Redactions to Duplicate Exhibit</b>
598-1	562-2
598-2	562-3
598-4	562-7
598-5	562-10
598-7	562-16
598-8	562-11
598-9	562-12
598-11	562-8
598-12	562-13
598-13	562-9
598-22	562-4
598-23	562-6
598-24	562-5